IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 7587 of 2004(C)

CP.50/1996 of LABOUR COURT, ERNAKULAM
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PETITIONER:

IDUKKI DISTRICT ENGINEER & TECHINICIANS
INDUSTRIAL CO-OPERATIVE SOCIETY LTD.NO.S.IND(1)4,
THODUPUZHA, REP. BY ITS PRESIDENT.

BY ADV. SRI.A.JAYASANKAR
SRI.MANU GOVIND

RESPONDENTS:
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1. LABOUR COURT, ERNAKULAM, KOCHI - 24.

2. A.D.SEBASTIAN, ANCHANICAL HOUSE,
ARAKKULAM P.O. VIAMOOLAMATTOM.

BY ADV. SRI.GEORGE THOMAS (MEVADA)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.7587 OF 2004

APPENDIX

EXT.P1: COPY OF THE AWARD DATED 29.5.1993 IN ID NO.15/91 PASSED BY THE 1ST RESPONDENT.

EXT.P2: COPY OF THE PETITION DATED 29.6.1996 SUBMITTED BY THE 2ND RESPONDENT.

EXT.P3: COPY OF WRITTEN STATEMENT DATED 12.07.1997 SUBMITTED BY THE PETITIONER.

EXT.P4: COPY OF THE DEPOSITION OF THE 2ND RESPONDENT BEFORE THE 1ST RESPONDENT.

EXT.P5: COPY OF THE DEPOSITION OF THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P6: COPY OF THE ORDER DATED 17.12.2003 IN C.P.50/1996 PASSED BY THE 1ST RESPONDENT.

2ND RESPONDENT'S EXHIBITS

EXT.R2A: TRUE COPY OF THE SETTLEMENT DTD 7.11.1987.

EXT.R2B: TRUE COPY OF THE PROCEEDINGS DTD 30.10.2007.

EXT.R2C: TRUE COPY OF THE WAGE SLIP DATED 28.2.1985.

EXT.R2D: TRUE COPY OF THE WAGE SLIP OF JOHNEY KURIAN. DATED 30.11.1989.

EXT.R2E: TRUE COPY OF THE WAGES SLIP OF JOHNEY KURIAN DATED 31.7.1990.

EXT.R2F: TRUE COPY OF THE WAGE SLIP OF JONEY KURIAN DATED 30.06.1991.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No. 7587 OF 2004

Dated this the 25th day of October, 2007

JUDGMENT

The management in C.P.No.50 of 1996 before the Labour Court, Ernakulam is the petitioner in this writ petition. The petitioner is a Co-operative Society which is almost defunct now. The 2nd respondent was a workman, who was denied employment by the petitioner Society. He raised an industrial dispute which was adjudicated by the Labour Court, Ernakulam as I.D.No.15/1991 which culminated in Ext.P1 award whereby the petitioner Society was directed to reinstate the 2nd respondent workman with continuity of service, backwages and other benefits from 11.12.1989 onwards. Although the Society did not challenge the award, they did not comply with the directions in in Ext.P1 award. Therefore the 2nd respondent filed C.P.No.50/96 claiming backwages for the period from 11.12.1989 to 12.3.1996 in accordance with Ext.P1 award. In that C.P., the Labour Court, Ernakulam found that an amount of Rs.1,15,000/- is due as backwages to the 2nd respondent for the period from 11.12.1989

to 12.3.1996 by Ext.P6 order. That order is under challenge before me.

2. Considering the fact that the petitioner Society is almost a defunct Society with their only income being the rent of the building of the Society, which income itself is being appropriated by the creditor bank and also taking into account the fact that the 2nd respondent was actually a member of the Society, I had directed the parties to negotiate for settlement. The parties could not come to a mutually acceptable settlement. Ultimately, this Court suggested that an amount of Rs.50,000/- would be a reasonable settlement of all claims of the 2nd respondent against the petitioner's Society. Although the counsel could not get the 2nd respondent to agree for settlement on that terms taking into account the fact that the Labour Court itself had referred to the fact that the 2nd respondent was actually not only a member but also a director Board member of the petitioner Society. I feel that the 2nd respondent should accept the amount of Rs.50,000/- in full and final settlement of his claim against the petitioner Society. I am taking this view taking into account the fact that the claim in the C.P. is only for a consolidated amount of

Rs.1,15,000/- and no settlement of accounts were filed by the petitioner also. As such, the Labour Court had not really computed the amount due but simply accepted the consolidated amount claimed by the 2nd respondent. Therefore there was no actual adjudication on the quantum. Therefore in any case computation has to be made on the basis of evidence to be adduced which has not been done by the Labour Court. It would not be in the interest of anybody to remand the matter for a further drawn out litigation at this point of time. Taking into account these facts also that I am inclined to dispose of the writ petition by modifying the order directing payment of Rs.50,000/- to the 2nd respondent in view of all his claims against the Society in respect of his employment. Ordered accordingly. This amount shall be paid within a period of one month from today. It would be open to the 2nd respondent to claim provident fund amounts due to him from the provident fund authorities.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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